



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271; NRC-2017-0125]

Vermont Yankee Nuclear Power Station

Entergy Nuclear Operations, Inc.

Consideration of Approval of Transfer of License and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct transfer of facility operating license and conforming amendment; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by the Entergy Nuclear Operations, Inc. (ENO) on February 9, 2017. The application seeks NRC approval of the direct transfer of Renewed Facility Operating License No. DPR-28 for the Vermont Yankee Nuclear Power Station (VYNPS), as well as the general license for the VYNPS Independent Spent Fuel Storage Installation, from ENO, the current licensed operator of VYNPS, to NorthStar Nuclear Decommissioning Company, LLC (NorthStar NDC), a wholly-owned subsidiary of NorthStar Group Services, Inc. (NorthStar). The request is also for the indirect transfer of control of Entergy Nuclear Vermont Yankee, LLC (ENVY), the licensed owner of the VYNPS, from ENVY's Entergy parent companies to NorthStar Decommissioning Holdings, LLC and its parents NorthStar, LVI Parent Corp., and NorthStar Group Holdings, LLC. The NRC is also considering amending the facility operating license for administrative purposes to reflect the proposed transfer. The application contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. A request for a hearing must be filed by **[INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must follow the instructions in Section VI of the SUPPLEMENTARY INFORMATION section of this notice.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0125. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual in the FOR FURTHER INFORMATION CONTACT section of this document
- **E-mail comments to:** Hearingdocket@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jack Parrott, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6634, e-mail: Jack.Parrott@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2017-0125 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0125.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2017-0125 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering a request for approval of an application for transfer of a license, under 10 CFR 50.80 and 72.50, approving the direct transfer of control of Facility Operating License No. DPR-28, for the VYNPS, as well as the general license for the VYNPS Independent Spent Fuel Storage Installation (ISFSI), currently held by ENO, to NorthStar NDC. The request is also for the indirect transfer of control of ENVY from ENVY's Entergy parent companies to NorthStar Decommissioning Holdings, LLC, and its parents NorthStar, LVI Parent Corp. and NorthStar Group Holdings, LLC. The NRC is also considering the request for amending the facility operating license for administrative purposes to reflect the proposed transfer.

The application now being considered is dated February 9, 2017 (ADAMS Accession No. ML17045A140), and was jointly filed by ENO, ENVY and NorthStar NDC (together,

applicants). The applicants requested that the NRC consent to the transfers of the licensed possession, maintenance, and decommissioning authorities by December 31, 2017, to implement expedited decommissioning of the VYNPS.

Following approval of the proposed direct transfer of control of the license, NorthStar NDC would assume licensed responsibility for VYNPS through the direct transfer of ENO's responsibility for licensed activities at VYNPS to NorthStar NDC. NorthStar VY would also enter into an operating agreement with NorthStar NDC, which provides for NorthStar NDC to act as NorthStar VY's agent and for NorthStar VY to pay NorthStar NDC's costs of operation, including all decommissioning costs. If the proposed indirect transfer of control is approved, ENVY would change its name to NorthStar VY, but the same legal entity would continue to exist before and after the proposed transfer. NorthStar VY would own the VYNPS facility as well as its associated assets and real estate, including its nuclear decommissioning trust fund, title to spent nuclear fuel, and rights pursuant to the terms of its Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste with the U.S. Department of Energy. Certain off-site assets and real estate of ENVY are excluded, such as administrative offices, off-site training facilities, etc.

Upon the proposed license transfer, NorthStar NDC would assume responsibility for compliance with the current licensing basis, including regulatory commitments that exist at closing, and would implement any changes under applicable regulatory requirements and practices.

As discussed in ENVY's 2014 Post Shutdown Decommissioning Activities Report (2014 PSDAR, ADAMS Accession No. ML14357A110), under the December 23, 2013, settlement agreement with State of Vermont agencies (Attachment 2 to the 2014 PSDAR), ENVY committed to initiate radiological decommissioning when it had made a reasonable determination that it had sufficient funds to complete decommissioning and remaining spent fuel management obligations. Under the assumptions and circumstances described in the 2014

PSDAR, ENVY could commence radiological decommissioning under the agreement with the State of Vermont agencies in approximately 2053 and complete such activities in approximately 2060. However, ENVY's current decommissioning plans, as described in the 2014 PSDAR, assume that the completion of radiological decommissioning will be by the maximum allowed (under 10 CFR 50.82) date of 2073, with site restoration by 2075. In contrast, if the transfer to dry storage of the spent fuel proceeds as described in the ENO notification of schedule change for dry fuel loading dated April 12, 2017 (ADAMS accession number ML17104A050), transfer of the remaining spent fuel in the spent fuel pool would commence in 2017 and be complete in late 2018. Upon the proposed license transfer date at the end of 2018, NorthStar NDC would become responsible for an ISFSI that contains all of the VY spent fuel. NorthStar NDC then would begin VYNPS decommissioning activities promptly and would plan to complete radiological decommissioning and restoration of the non-ISFSI portions of the VYNPS site by the end of 2030 (and potentially as early as 2026). NorthStar VY and NorthStar NDC would then restore the site in accordance with standards approved by the Vermont Public Service Board (PSB). Under Vermont state law, the PSB must also approve the transaction and issue an amended Certificate of Public Good. In parallel with NRC's review of the application, NorthStar NDC submitted an updated proposed PSDAR, dated April 6, 2017 (ADAMS Accession No. ML17096A394), to become effective after license transfer, which would reflect NorthStar NDC's plans for accelerated decommissioning following the proposed transfers of the license.

Before making a decision on the transfer, and before issuance of the proposed conforming license amendment, the Commission will evaluate the request against the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The NRC's regulations at § 50.80 and § 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an

application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or to the license of an Independent Spent Fuel Storage Installation which does no more than conform the license to reflect the transfer action involves no significant hazards consideration and no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91. An Environmental Assessment will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and the associated license amendments are categorically excluded from the requirements to perform an environmental assessment.

III. Public Meeting and Opportunity to Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the ADDRESSES section of this document.

In addition, the NRC staff will be participating in a public meeting of the Vermont Nuclear Decommissioning Citizens Advisory Panel (NDCAP) on May 25, 2017, in Brattleboro, VT. The time, location, and agenda for the meeting will be posted on the NDCAP website at:

<http://publicservice.vermont.gov/electric/ndcap>. The NRC personnel will give a presentation on the license transfer application review process at the NDCAP meeting and will take any public oral or written comments on the application for the proposed license transfer and the associated proposed updated PSDAR. The meeting will be transcribed and will include: 1) a presentation by NorthStar and Entergy on the proposed license transfer; 2) a presentation by NRC on the review of the application for the proposed license transfer; and, 3) a discussion with the public on the proposed license transfer and the proposed updated PSDAR. To be considered, comments must be provided either at the transcribed public meeting or submitted by the comment deadline identified in the DATES section of this document. For additional information regarding the meeting, see the NRC's Public Meeting Schedule Web site at <http://meetings.nrc.gov/pmns/mtg>. The agenda will be posted no later than 10 days prior to the meeting.

IV. Opportunity to Request a Hearing and Petition for Leave to Intervene

Within 20 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: 1) the name, address, and telephone number of the petitioner; 2) the nature of the petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 20 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the

deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner’s interest in the proceeding. The petition should be submitted to the Commission by **[INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to 1) request a digital identification

(ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and 2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by

e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law

requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

For further details with respect to this application, see the application dated February 9, 2017 (ADAMS Accession No. ML17045A140).

VI. Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Any person who desires access to proprietary, confidential commercial information that has been redacted from the application should contact the applicant by telephoning Gregory G. DiCarlo, Vice President & General Counsel, NorthStar Group Services, Inc., at 203-222-0584 x3051, for the purpose of negotiating a confidentiality agreement or a proposed protective order

with the applicant. If no agreement can be reached, persons who desire access to this information may file a motion with the Secretary and addressed to the Commission that requests the issuance of a protective order.

Dated at Rockville, Maryland this 19th day of May, 2017.

For the Nuclear Regulatory Commission.

Gregory F. Suber, Acting Director,
Division of Decommissioning, Uranium Recovery,
and Waste Programs,
Office of Nuclear Material Safety and Safeguards.

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